

**Executive Summary – Enforcement Matter – Case No. 43340**

**City of Fort Worth**

**RN100942259**

**Docket No. 2012-0151-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Fort Worth Village Creek WWTF, located southeast of the confluence of the West Fork Trinity River and Village Creek, Fort Worth, Tarrant County

**Type of Operation:**

Wastewater treatment facility and associated collection system

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** July 20, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$15,625

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$15,625

Name of SEP: Texas Association of Resource Conservation and Development Areas,  
Inc. - Water or Wastewater Treatment Assistance

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2011

**Executive Summary – Enforcement Matter – Case No. 43340**  
**City of Fort Worth**  
**RN100942259**  
**Docket No. 2012-0151-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 6, 2011

**Date(s) of NOE(s):** January 3, 2012

***Violation Information***

1. Failed to prevent a discharge of untreated wastewater from the collection system [TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010494013 Permit Condition No. 2.g.].
2. Failed to report an unauthorized discharge within 24 hours of becoming aware of the noncompliance [TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010494013 Monitoring and Reporting Requirements No. 7].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

On November 30, 2011, Respondent implemented the following corrective measures at the Facility:

- a. Removed the debris causing the blockage;
- b. Pumped sewer water back into the sanitary sewer collection system;
- c. Removed and disposed of the dead fish;
- d. Cleaned and disinfected the area with lime; and
- e. Placed the collection line on a cleaning schedule.

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project (“SEP”). (See SEP Attachment A)
2. The Order will also require Respondent to:
  - a. Within 30 days, conduct training sessions for Facility personnel to ensure all future unauthorized discharges are reported to TCEQ within 24 hours of occurrence; and
  - b. Within 45 days, submit written certification demonstrating compliance.

**Executive Summary – Enforcement Matter – Case No. 43340**  
**City of Fort Worth**  
**RN100942259**  
**Docket No. 2012-0151-MWD-E**

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Harvey Wilson, Enforcement Division,  
Enforcement Team 3, MC 169, (512) 239-0321; Debra Barber, Enforcement Division,  
MC 219, (512) 239-0412  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division,  
MC 219, (512) 239-3565  
**Respondent:** Fernando Costa, Assistant City Manager, City of Fort Worth, P. O. Box  
870, Fort Worth, Texas 76101  
Frank Crumb, Director, Water Department, City of Fort Worth, P. O. Box 870, Fort  
Worth, Texas 76101  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2012-0151-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Fort Worth</b>
<b>Payable Penalty Amount:</b>	<b>Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625)</b>
<b>SEP Amount:</b>	<b>Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Tarrant County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

City of Fort Worth  
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on

City of Fort Worth  
Agreed Order – Attachment A

Environmental Quality" and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

---

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.







# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	6-Feb-2012	<b>Screening</b>	27-Feb-2012	<b>EPA Due</b>	
	<b>PCW</b>	27-Feb-2012				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Fort Worth		
<b>Reg. Ent. Ref. No.</b>	RN100942259		
<b>Facility/Site Region</b>	4-Dallas/Fort Worth	<b>Major/Minor Source</b>	Minor

## CASE INFORMATION

<b>Enf./Case ID No.</b>	43340	<b>No. of Violations</b>	2
<b>Docket No.</b>	2012-0151-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Harvey Wilson
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>		\$0	<b>Maximum</b>
			\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$8,750
---	-------------------	---------

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	100.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$8,750
---------------------------	--------------------	--------------------------------	---------

Notes: Enhancement for one month of self-reported effluent violations, two NOV's with dissimilar violations, four NOV's with same/similar violations, two orders with denial of liability, two orders without denial of liability, and repeat violator classification.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$1,875
--	-------------------	---------

<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
-------------------------	-------------------	-------------------	-----

Approx. Cost of Compliance: \$7  
\$10,200  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$15,625
-----------------------------	-----------------------	----------

<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:	<b>Final Penalty Amount</b>	\$15,625
--------	-----------------------------	----------

<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$15,625
-----------------------------------	-------------------------------	----------

<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	\$0
-----------------	----------------	-------------------	-----

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for findings orders.

<b>PAYABLE PENALTY</b>	\$15,625
------------------------	----------

Screening Date 27-Feb-2012

Docket No. 2012-0151-MWD-E

PCW

Respondent City of Fort Worth

Policy Revision 3 (September 2011)

Case ID No. 43340

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100942259

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	2	40%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 119%

## &gt;&gt; Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for one month of self-reported effluent violations, two NOVs with dissimilar violations, four NOVs with same/similar violations, two orders with denial of liability, two orders without denial of liability, and repeat violator classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 144%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 100%

**Screening Date** 27-Feb-2012  
**Respondent** City of Fort Worth  
**Case ID No.** 43340  
**Reg. Ent. Reference No.** RN100942259  
**Media [Statute]** Water Quality  
**Enf. Coordinator** Harvey Wilson  
**Violation Number** 1

**Docket No.** 2012-0151-MWD-E

**PCW**

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**Rule Cite(s)** Tex. Water Code § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010494013 Permit Conditions No. 2.g

**Violation Description** Failed to prevent a discharge of untreated wastewater from the collection system. Specifically, on November 29, 2011 a grease blockage in a collection line resulted in an estimated 11,500 gallon discharge of wastewater from a manhole near 6300 Randol Mill Road into an unnamed creek, resulting in 653 fish being killed.

**Base Penalty** \$25,000

**>> Environmental, Property and Human Health Matrix**

**OR**

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

**Percent** 30.0%

**>> Programmatic Matrix**

Falsification	Major	Moderate	Minor

**Percent** 0.0%

**Matrix Notes**

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

**Adjustment** \$17,500

\$7,500

**Violation Events**

**Number of Violation Events** 1

1 **Number of violation days**

mark only one with an x	daily	x
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

**Violation Base Penalty** \$7,500

One daily event is recommended.

**Good Faith Efforts to Comply**

25.0% Reduction

\$1,875

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

**Notes**

The Respondent achieved compliance by November 30, 2011.

**Violation Subtotal** \$5,625

**Economic Benefit (EB) for this violation**

**Statutory Limit Test**

**Estimated EB Amount** \$1

**Violation Final Penalty Total** \$13,125

**This violation Final Assessed Penalty (adjusted for limits)** \$13,125

# Economic Benefit Worksheet

**Respondent** City of Fort Worth  
**Case ID No.** 43340  
**Reg. Ent. Reference No.** RN100942259  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

**Item Cost**   **Date Required**   **Final Date**   **Yrs**   **Interest Saved**   **Onetime Costs**   **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	29-Nov-2011	30-Nov-2011	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

## Notes for DELAYED costs

Estimated cost of removing the blockage, pumping sewage back into the manhole, disposing of the dead fish, and disinfecting the area with lime. Date Required is the date the violation occurred. Final Date is the date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

## Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$1

Screening Date 27-Feb-2012

Docket No. 2012-0151-MWD-E

PCW

Respondent City of Fort Worth

Policy Revision 3 (September 2011)

Case ID No. 43340

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN100942259

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.039(b), 30 Tex. Admin. Code § 305.125(9) and TPDES Permit No. WQ0010494013 Monitoring and Reporting Requirements No. 7

## Violation Description

Failed to report an unauthorized discharge within 24 hours of becoming aware of the noncompliance. Specifically, the discharge which resulted in a fish kill occurred on November 29, 2011 but was not reported until December 1, 2011.

Base Penalty \$25,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

## &gt;&gt; Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

## Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet good faith criteria.

Violation Subtotal \$1,250

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

# Economic Benefit Worksheet

**Respondent** City of Fort Worth  
**Case ID No.** 43340  
**Reg. Ent. Reference No.** RN100942259  
**Media** Water Quality  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

**Item Cost** **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**  
**Item Description** No commas or \$

## Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling	\$150	30-Nov-2011	31-Aug-2012	0.75	\$6	\$6
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)	\$50	29-Nov-2011	1-Dec-2011	0.01	\$0	\$0

**Notes for DELAYED costs**

The estimated cost of notifying TCEQ of the unauthorized discharge and training facility personnel to report unauthorized discharges within 24 hours of the occurrence. Date required was the date of the violation. Final Date was the date of notification and when the training will be complete.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

**Notes for AVOIDED costs**

**Approx. Cost of Compliance**

\$200

**TOTAL**

\$6

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600128862 City of Fort Worth Classification: AVERAGE Rating: 2.70

Regulated Entity: RN100942259 CITY OF FORT WORTH VILLAGE CREEK WWTP Classification: AVERAGE Site Rating: 9.61

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	TA0512K
	AIR OPERATING PERMITS	PERMIT	1704
	AIR NEW SOURCE PERMITS	PERMIT	7553
	AIR NEW SOURCE PERMITS	REGISTRATION	46811
	AIR NEW SOURCE PERMITS	REGISTRATION	46812
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TA0512K
	AIR NEW SOURCE PERMITS	AFS NUM	4843900321
	AIR NEW SOURCE PERMITS	REGISTRATION	71648
	AIR NEW SOURCE PERMITS	REGISTRATION	96882
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7527
	WASTEWATER	PERMIT	WQ0010494013
	WASTEWATER	EPA ID	TX0047295
	PRETREATMENT	PERMIT	WQ0010494013
	PRETREATMENT	EPA ID	TX0047295000
	WASTEWATER LICENSING	LICENSE	WQ0010494013
	STORMWATER	PERMIT	TXR050332
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	TA0512K

Location: Southeast of the confluence of the West Fork Trinity River and Village Creek in Tarrant County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: March 21, 2012

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 13, 2007 to January 13, 2012

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Harvey Wilson Phone: 239 - 0321

## Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? YES
- Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- If YES, who is the current owner/operator? N/A
- If YES, who was/were the prior owner(s)/operator(s)? N/A
- If YES, when did the change(s) in owner or operator occur? N/A
- Rating Date: 9/1/2011 Repeat Violator: YES

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 08/31/2007

ADMINORDER 2007-0387-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: General Terms and Conditions PERMIT

Description: Failed to timely submit an annual compliance certification no later than 30 days after the end of the certification period

Effective Date: 07/21/2008

ADMINORDER 2008-0149-MWD-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 2g PERMIT

Description: Failure to prevent an unauthorized discharge that resulted in a fish kill.

Effective Date: 08/09/2010

ADMINORDER 2010-0046-MWD-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Permit Conditions No. 2.g. OP

Description: Failure to prevent the unauthorized discharge of raw wastewater into or adjacent to water in the state.

Effective Date: 03/19/2011

ADMINORDER 2010-1334-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 111, SubChapter A 111.111(a)(4)(A)(ii)  
30 TAC Chapter 122, SubChapter B 122.143(4)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 1(A) OP

Description: Failure to maintain a daily visible emissions log for the three flares

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
5C THSC Chapter 382 382.085(b)

Rqmt Prov: Special Condition 8 OP

Description: Failure to maintain records demonstrating compliance with the periodic monitoring requirements for the cold solvent cleaners

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.143(4)  
30 TAC Chapter 122, SubChapter B 122.145(2)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: General Terms and Conditions OP

Description: Failure to report, in writing, to the TCEQ, all instances of deviations, the probable cause of the deviations, and any corrective actions or preventative measures taken for each emission unit addressed in the Title V Permit

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/26/2007	(537657)
2	02/14/2007	(540499)
3	02/28/2007	(540534)
4	03/08/2007	(543267)
5	02/15/2007	(547833)
6	01/22/2007	(547837)
7	03/23/2007	(554850)
8	06/21/2007	(564341)



9	07/24/2007	(568019)
10	03/15/2007	(580655)
11	04/16/2007	(580656)
12	05/17/2007	(580657)
13	06/15/2007	(580658)
14	07/17/2007	(580659)
15	08/14/2007	(603139)
16	09/13/2007	(603140)
17	10/22/2007	(603141)
18	12/05/2007	(610451)
19	12/20/2007	(611731)
20	02/26/2008	(617162)
21	11/16/2007	(621599)
22	12/17/2007	(621600)
23	01/15/2008	(621601)
24	04/04/2008	(641283)
25	05/30/2008	(654068)
26	02/13/2008	(673547)
27	03/17/2008	(673548)
28	04/11/2008	(673549)
29	05/14/2008	(691816)
30	06/12/2008	(691817)
31	07/16/2008	(691818)
32	08/18/2008	(699954)
33	10/29/2008	(706015)
34	11/21/2008	(708815)
35	08/14/2008	(712785)
36	09/15/2008	(712786)
37	10/10/2008	(712787)
38	01/22/2009	(721577)
39	11/13/2008	(728980)
40	12/15/2008	(728981)
41	01/15/2009	(728982)
42	02/13/2009	(752130)
43	03/11/2009	(752131)
44	04/13/2009	(752132)
45	05/13/2009	(769864)
46	06/10/2009	(769865)
47	12/09/2009	(776936)
48	10/09/2009	(778773)
49	12/14/2009	(782107)
50	01/28/2010	(789475)
51	02/05/2010	(790919)
52	08/02/2010	(798172)
53	07/13/2010	(802580)
54	02/17/2010	(809102)

55	08/14/2009	(809103)
56	08/11/2009	(809104)
57	02/17/2010	(809105)
58	10/15/2009	(809106)
59	11/12/2009	(809107)
60	02/17/2010	(809108)
61	01/20/2010	(809109)
62	03/12/2010	(832481)
63	04/20/2010	(832482)
64	05/12/2010	(832483)
65	06/18/2010	(846766)
66	08/31/2010	(857626)
67	07/19/2010	(861291)
68	09/16/2010	(864204)
69	11/15/2010	(864736)
70	08/31/2010	(867442)
71	09/10/2010	(874464)
72	01/06/2011	(877461)
73	01/10/2011	(878304)
74	10/11/2010	(882045)
75	11/11/2010	(888512)
76	03/14/2011	(891512)
77	12/13/2010	(896853)
78	11/11/2010	(902811)
79	02/15/2011	(909652)
80	04/18/2011	(912924)
81	03/16/2011	(916873)
82	04/14/2011	(926603)
83	06/17/2011	(933559)
84	05/16/2011	(938587)
85	06/16/2011	(945959)
86	08/22/2011	(948763)
87	07/14/2011	(953214)
88	08/31/2011	(959855)
89	09/14/2011	(965896)
90	10/13/2011	(971938)
91	01/05/2012	(975960)
92	11/17/2011	(978104)
93	12/15/2011	(984874)
94	01/12/2012	(991163)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 01/02/2008 (611731)

CN600128862

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

7553, Special Condition 10A PERMIT

Description: Failure to conduct stack sampling for Unit GT-2 during the fourth quarter of 2006, as required under New Source Review Permit No. 7553, Condition 10A.

Date: 04/01/2008 (654068) CN600128862

Self Report? NO Classification: Major

Citation: TWC Chapter 26 26.121

Description: Failure to prevent an unauthorized discharge of wastewater that resulted in a fish kill.

Date: 07/31/2008 (712785) CN600128862

Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

Date: 10/28/2008 (706015) CN600128862

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Date: 12/15/2009 (782107) CN600128862

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter C 319.302

Description: Failure to provide the required public notification of a spill or accidental discharge of untreated domestic wastewater.

Date: 07/19/2010 (857626)

Self Report? NO Classification: Minor

Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii)  
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iii)

Description: The CA failed to determine that the W. Pat Crow facility's heat treatment quench tank is a categorical process subject to the Aluminum Forming Point Source Category pretreatment standards identified in 40 CFR Part 467.

Self Report? NO Classification: Minor

Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(v)

Description: The Control Authority (CA) failed to inspect two significant industrial users (SIUs) at least once during the 2007- 2008 pretreatment year; failed to monitor SIUs for all of the applicable local limits adopted in Section 12.5-610 of the CA's ordinance; and failed to sample and analyze for pH at Bell Helicopter during the June 2008 sampling event.

Self Report? NO Classification: Minor

Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.6(e)  
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)(B)

Description: The Control Authority failed to issue permits to several significant industrial users (SIUs) with the appropriate local limits or alternative pretreatment limits for categorical pretreatment standards using the combined wastestream formula (CWF).

Self Report? NO Classification: Moderate

Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(1)  
40 CFR Chapter 403, SubChapter N, PT 403 403.12(h)  
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iv)  
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)

Description: The CA failed to adequately review self-monitoring reports and validate laboratory reports submitted by SIUs; failed to: 1) follow its enforcement response plan and issue timely initial actions within 15 working days of becoming aware of violations; 2) escalate enforcement against Ventura for repeated failure to comply with limits and SNC and Quala Wash for failure to respond to issued NOV's, and Accurate for failure to respond to the 1/3/07 SNC notification (finally issued a NOV 3 years late).

Date 01/03/2011 (877461) CN600128862

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)

TWC Chapter 26 26.121(a)(1)  
TWC Chapter 26 26.121(a)(2)  
TWC Chapter 26 26.121(a)(3)  
TWC Chapter 26 26.121(b)  
TWC Chapter 26 26.121(c)  
TWC Chapter 26 26.121(d)  
TWC Chapter 26 26.121(e)

Description:	Failure to prevent the discharge of sewage in the collection system.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.11(d) WQ0010494-013 PERMIT		
Description:	Failure to measure effluent flow at the required location.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c) WQ0010494-013 PERMIT		
Description:	Failure to accurately complete DMRs.		

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF FORT WORTH  
RN100942259

§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2012-0151-MWD-E

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Fort Worth ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility and associated collection system located southeast of the confluence of the West Fork Trinity River and Village Creek in Fort Worth, in Tarrant County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on December 6, 2011, TCEQ staff documented that a grease blockage in a collection system line resulted in an estimated 11,500 gallon discharge of wastewater from a manhole located near 6300 Randol Mill Road into an unnamed creek which resulted in 653 fish being killed.
4. During an investigation on December 6, 2011, TCEQ staff documented the unauthorized discharge which occurred on November 29, 2011 was not reported to TCEQ until December 1, 2011.
5. The Respondent received notice of the violations on January 3, 2012.
6. The Executive Director recognizes that on November 30, 2011, the Respondent implemented the following corrective measures at the Facility:
  - a. Removed the debris causing the blockage;
  - b. Pumped sewer water back into the sanitary sewer collection system;
  - c. Removed and disposed of the dead fish;
  - d. Cleaned and disinfected the area with lime; and
  - e. Placed the collection line on a cleaning schedule.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent a discharge of untreated wastewater from the collection system, in violation of TEX. WATER CODE § 26.121(a) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010494013 Permit Condition No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to report an unauthorized discharge within 24 hours of becoming aware of the noncompliance, in violation of TEX. WATER CODE § 26.039(b), 30 TEX. ADMIN. CODE § 305.125(9) and TPDES Permit No. WQ0010494013 Monitoring and Reporting Requirements No. 7.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for

violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625) shall be conditionally offset by the Respondent completion of a Supplement Environmental Project ("SEP").

### **III. ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fort Worth, Docket No. 2012-0151-MWD-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, conduct training sessions for Facility personnel to ensure all future unauthorized discharges are reported to TCEQ within 24 hours of occurrence, in compliance with TPDES Permit No. WQ0010494013 Monitoring and Reporting Requirements; and

- b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Dallas/Fort Worth Regional Office  
Texas Commission on Environmental Quality  
2309 Gravel Drive  
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the



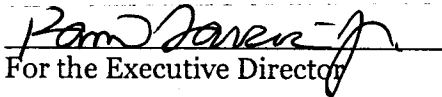
Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

9/4/12  
Date


I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Fort Worth. I am authorized to agree to the attached Agreed Order on behalf of the City of Fort Worth, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Fort Worth waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

5/15/12  
Date

Fernando Costa  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
City of Fort Worth

Assistant City Manager  
\_\_\_\_\_  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

**Attachment A**  
**Docket Number: 2012-0151-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Fort Worth</b>
<b>Payable Penalty Amount:</b>	<b>Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625)</b>
<b>SEP Amount:</b>	<b>Fifteen Thousand Six Hundred Twenty-Five Dollars (\$15,625)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Texas Association of Resource Conservation and Development Areas, Inc. ("RC&amp;D") - Water or Wastewater Treatment Assistance</b>
<b>Location of SEP:</b>	<b>Tarrant County</b>

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative penalty amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

**C. Minimum Expenditure**

Respondent shall contribute at least the SEP amount to the Third-Party Recipient and comply with all other provisions of this SEP.

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent must contribute the SEP amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

Concurrent with the payment of the SEP amount, Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division  
Attention: SEP Coordinator, MC 219  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Failure to Fully Perform**

If Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP amount.

The check for any amount due shall be made out to "Texas Commission on

City of Fort Worth  
Agreed Order – Attachment A

Environmental Quality” and mailed to:

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

**5. Publicity**

Any public statements concerning this SEP made by or on behalf of Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

**6. Clean Texas Program**

Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.